

cases which will come before you. But we do need—and we deserve—to know what you think about the fundamental issues that surround these cases.

Today we begin a public discussion, which is the only opportunity we will have—on behalf of the American people—to engage in a conversation with you about the core concepts of our society. And I hope, Judge, that you will discuss these matters with us more in terms of principles than precedents, more in terms of desires than doctrine.

The American people care about these concepts. They are not just reviewed in law journals. As violence flickers across our TV screens, we think about our responsibility to children and our pledge to protect free speech. As gangs roam our streets and create fear in our communities, we debate balancing the rights of individuals with the responsibility of the police to protect civil order. As new civil and voting rights laws are proposed, we struggle to correct discrimination of the past without creating a newly disenfranchised class.

These issues invite all Americans to struggle with the dilemmas of Democracy. And if we discuss these issues with candor, I believe we will have a conversation the American people will profit from. And perhaps, Judge Ginsburg, the type of “stimulating” conversation you spoke of in the Rose Garden.

I welcome you before the Committee, and I look forward to our discussion. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Now I would like to recognize the distinguished Senator from California, Senator Feinstein.

#### OPENING STATEMENT OF SENATOR FEINSTEIN

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Good morning, Judge Ginsburg.

For me, this is a very special opportunity, because while several of my colleagues spoke of the fact that they have been present during many of these hearings, for myself and Senator Moseley-Braun, this is our first. And it is no coincidence that, as our first, it is someone such as yourself.

We are contemporaries, Judge, and many women of our generation struggled against significant odds to educate themselves and to balance career and family. To be honest, though, until I began to prepare for these hearings, I really didn't realize the depth and the extent to which you have played a very critical role in breaking down the barriers that have barred women from public and private sectors for centuries. So now I know just how really fitting and proper and how significant this vote is going to be for me. And I want to thank President Clinton for nominating you.

I noted, for example, that as one of only 9 women in a class of 400 at Harvard, you were asked by the dean to justify taking a place in the class that otherwise would have gone to a man. That despite graduating at the top of your law school class, only two law firms in the entire city of New York offered you second interviews, and neither offered you a job. And that even after you became a litigator, you were given sex discrimination cases to handle, because they were viewed at the time as women's work.

You met each of these challenges and indignities and, no doubt, many more, Judge Ginsburg, with intellect, with determination, and grace. And not only did you justify your admission to law school, but you blazed a trail that thousands of women have followed.

Decades later, asked to identify the most significant jurists of his time, the same dean who had begrudged your matriculation at Harvard named you and the great Thurgood Marshall. The rest of

your story is quite literally history, the history of modern gender discrimination law.

As the founder and director of the ACLU women's rights project, you brought virtually every major sex discrimination case before the Supreme Court in the 1970's. From the very first case that you argued and won, as was spoken by Senator Leahy, *Frontiero v. Richardson*, your work has changed the constitutional rules of the road forever.

In *Frontiero*, the Court struck down as "inherently suspect" a law based on gender, and, for the first time in history, established a new and tough test to which all future gender-based statutes would be subjected.

As I know from my colleague, Senator Moseley-Braun, and I know she will appreciate it, *Frontiero* fittingly was decided precisely 100 years after the Supreme Court upheld in *Bradwell v. Illinois* that State's refusal to admit a woman to the practice of law.

In *Bradwell*, the Supreme Court wrote: "Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life." Accordingly, the Court concluded, "The harmony \* \* \* of interests and views which belong, or should belong to the family institution, is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband." What a long way we have come in this Nation.

It took a century, though, to extract from the Court in *Frontiero* a new test of constitutionality for statutes based on gender, and it took an extraordinary woman to do it.

Incredibly, you prevailed, as has been said, in five of the six cases that you personally argued before the Court, winning in the process equal treatment under the law for both women and men in the administration of estates, receipt of Social Security benefits, availability of tax exemptions, and jury service. In the process, you improved the lives of virtually millions of Americans.

In conclusion, for the intellect and dedication to thrive in hostile academic environments, laying the groundwork for thousands of women, including your daughter and mine, who is today a lawyer, to follow; for the courage to persevere, with your husband's active participation, in pursuit of a life in the law, and perhaps most of all, for the fruits of that life as a litigator and a jurist.

I want to thank you, Judge Ginsburg, both for all that you have done, and as a member of the U.S. Supreme Court, for all that you have yet to do.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Another distinguished new member of the committee, Senator Moseley-Braun.

#### OPENING STATEMENT OF SENATOR MOSELEY-BRAUN

Senator MOSELEY-BRAUN. Thank you very much, Mr. Chairman. Judge Ginsburg and to your family, welcome.

Mr. Chairman, I am truly honored to have the opportunity to participate in these hearings. One of a Senator's most solemn responsibilities is the duty to offer advice and consent on the nomination of a Justice to the U.S. Supreme Court. One of the most pre-